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PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN CUSTODY

Name Garza Ramiro RMG
(Last) (First) (Initial)Prison Number F04325Institutional Address RICHARD J. DONOVAN CORRECTIONAL FACILITY
480 ALTA ROAD SAN DIEGO, CA 92179UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MAY 08 2008

FILED
DOCKETED

DATE

JSW

CV 08

571

(PR)

Ramiro Garza
Full Name of Petitioner

vs.

Case No. F02670731-9
(To be supplied by the Clerk,
U.S. District Court)

PETITION FOR WRIT OF HABEAS CORPUS

Name of Respondent
(Warden or jailor)Read Comments Carefully Before Filling InWhen and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma.

If you file in the Northern District because you are now in a prison in this District but you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court in which is located the State court which convicted and sentenced you. The Federal District Courts in California prefer that a petition should be considered in the district of conviction and sentencing. The records can be more easily consulted and witnesses are available if a hearing is necessary.

If you were convicted and sentenced and are not now in a prison in the Northern District, do not file in this District. If you do, your petition will be denied for lack of jurisdiction of the subject matter and you will have to refile in the district of sentencing.

Who To Name As Respondent

You must name the person in whose actual custody you are. This usually means the warden or jailor. Do not name the State of California, a city, a county, or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the State judgment against which you seek relief but may be subject to such custody in the future (e.g. detainers), you must name the person in whose custody you are now and the attorney general of the State in which the judgment which you seek to attack was entered.

PART AJURISDICTION

The federal district court can only consider your petition if you satisfy certain jurisdictional requirements. The information below will allow the court to determine whether those requirements are met.

1. For what crime were you sentenced? (If you seek habeas corpus based upon a sentence for more than one crime, list each crime separately, using Penal Code numbers if known. If you are seeking habeas corpus as to more than one sentence, a different petition should be filed for each sentence.)

245 A assault with a Deadly weapon
Broke probation got 450 time 1
13 years

2. The sentence from which you seek relief is as follows:

(a) Name and location of court which imposed sentence (for example, Alameda County Superior Court, Oakland):

Fresno CA Jailhouse
 Court Location

(b) Case number, if known F02670731-9

(c) Date and terms of sentence 13 years prison

(d) Are you now in custody serving this term? Yes ☒ No ☐

(Custody means being in jail, on parole or probation. You are not in custody if you are released on bail, on your own recognizance or if there is a stay of execution of sentence.)

Where? San Diego
 (Name of Institution) (Address)

3. What post-conviction relief have you sought?

APPEAL

(a) Did you take an appeal from your conviction? Yes ☐ No ☒

(b) To what court(s)? Check

Court of Appeal Yes ☒ No ☒ Fresno Supreme
(Give year) (Result)

Supreme Court of California Yes ☒ No ☐ Fresno NO
(Give year) (Result)

Any other court _____
(Give name and year: Result)

(c) If you appealed, were the grounds the same as those which will be set forth in this petition? Yes ☐ No ☐

(d) Was any opinion rendered? Yes ☐ No ☐

(e) If you did not appeal, what were your reasons?

(f) Did you seek permission to file a late appeal under Rule 31(a)?

Yes ☒ No ☐

If you answered "Yes" give _____
(Name of Court)

Judge read right to appeal
(and result)

OTHER POST-CONVICTION REVIEW

(g) Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes ☒ No ☐

(h) If you answered "Yes" give the following information about each proceeding. (Use back side of this page if you need more space. Fill in the same questions for each.)

1. Name of Court Fresno CA Supreme Court
Type of Proceeding when I went to court / ass

Grounds raised (Be brief and specific):

- a. loss for two years
- b. Straight in a row
- c. over 7+ times I fill out
- d. a form to sue my case
- e. over

Result NO Date of Result _____

Citation of opinion, if any and known _____

II. Name of Court Fresno CA

Grounds raised (Be brief and specific):

- a. to get out of prison.
- b. I had Attempt murder
- c. got probation for 5 years
- d. 13 year LID I got
- e. into a program sent to

Result _____ Date of Result _____

Citation of opinion, if any and known _____

III. Name of Court _____

Grounds raised (Be brief and specific):

- a. got 13 years for a
- b. Self defense fight
- c. when I was out the program
- d. I had 1 year program
- e. 5 years probation 13 year LID

Result _____ Date of Result _____

Citation of opinion, if any and known _____

(i) If you answered "No" explain briefly why you have not sought any post-conviction review?

Self defense fight my word
over his

(j) Is any petition or other post-conviction preceeding now pending in any court? Yes ☒ No ☐

Fresno Jail
(Name and location of Court)

PART B - TRIAL INFORMATION

4. Check if any of the following were held in your case?

Arraignment: Yes ☒ No ☐ Preliminary Hearing: Yes ☒ No ☐

Motion to Suppress: Yes ☐ No ☐

5. Check whether a finding of guilty was made after a plea of

Guilty ☐ Not Guilty ☒ Nolo Contendere ☐

Any other plea _____
(Specify)

6. Check kind of trial:

Jury ☐ Judge alone ☒

Judge alone on a transcript ☒

7. Did you testify at your trial? Yes ☒ No ☐

PART C - GROUNDS FOR RELIEF FROM CONVICTION

State briefly and concisely every ground which you believe supports your claim that you are being held in unlawful confinement. This means telling the court the facts upon which you rely. You should avoid legal arguments with numerous case citations. Thus, what legal right or privilege were you deprived of in your case? What happened to deprive you of this right? Who made the error of which you complain? What did he do wrong? When did he do it? If you lack space to state all your grounds, use the back side of the page.

NOTE WELL: You should state all possible grounds for relief from the conviction described in Part A in this petition. If you fail to set forth your grounds now, you may bar yourself from presenting such grounds at a later date, or the respondent may assert successfully that a second petition from you is an abuse of the federal habeas corpus remedy.

8. Grounds for Relief

(a) Ground One: I had Attempt murder
got 1 year program 5 years

Supporting Facts: probation 13 year

LIb I got 13 year
LIb for a fist fight
when I was at the program
Self defense

(b) Ground Two: A guy hit me
hit Back for self defense

Supporting Facts: _____

I already ~~the~~ went threw
all step's Now I need you
to do me case

(c) Ground Three: _____

Supporting Facts: _____

9. If any of the grounds listed were not previously presented to any other court, state briefly which grounds were not so presented and why:

10. Supporting cases, if any. List by name and citation only, the cases which you think are close factually to yours so that it is an example of the error you believe occurred in your case. Do not discuss the holding or reasoning of these cases:

PART D - ATTORNEY INFORMATION

11. Give the name and address of each attorney who represented you in the proceedings attached here.

- (a) Arraignment _____
- (b) At preliminary hearing _____
- (c) At time of plea _____
- (d) At trial _____
- (e) At sentencing _____
- (f) On appeal _____
- (g) Other post-conviction proceeding _____

12. Was the attorney hired by you or your family? Yes / ☐ / No / ☐
 Appointed by the Court? Yes / ☐ / No / ☐

Are you alleging as one ground for relief that your attorney gave you ineffective legal assistance? If so, whom and at what stage?

13. If you did not have an attorney represent you, did you represent yourself? Yes / ☐ / No / ☐

With consent of Court: Yes / ☐ / No / ☐

14. Are you represented by an attorney in this petition? Yes / ☐ / No / ☐

If you answered "Yes" give name and address of your attorney:

WHEREFORE, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Executed at _____ Dated: _____

Signature of Petitioner

FORMA PAUPERIS AFFIDAVIT
(See Instructions of this form)

I hereby apply for leave to proceed with this habeas corpus petition without prepayment of fees or costs or security therefor. In support of my application, I state that the following facts are true:

(1) I am the petitioner in said petition, and I believe I am entitled to redress.

(2) I am unable to pay the costs of said action or give security because:

I have no money

Ramiro Munoz Garza
Signature of Petitioner
(Sign here only if you seek to proceed without payment of fees)

STATE OF California)

COUNTY OF San Diego)

I declare under penalty of perjury that the foregoing is true and correct.

Signed on R
(Date)

Ramiro Munoz Garza
Signature of Petitioner